

Appeal from decision of the Wyoming State Office, Bureau of Land Management, dismissing protest of rejection of simultaneous oil and gas lease applications. W-72804, W-72806, W-72808, W-72810, W-72819, W-72820, W-72823, W-72833, W-72835, W-72845, and W-72883.

Reversed and remanded.

1. Accounts: Payments -- Oil and Gas Leases: Applications: Drawings --  
Oil and Gas Leases: Applications: Filing -- Regulations: Interpretation

A regulation should be sufficiently clear that there is no reasonable basis for an oil and gas lease applicant's noncompliance with the regulation before it is interpreted to deprive an applicant of a preference right to a lease. A regulation designating a bank money order as an acceptable form of remittance supports the acceptance of a personal money order issued by a bank.

APPEARANCES: George F. Metz, pro se; Dean Williams, Esq., Blackfoot, Idaho, for appellee John B. Benson; James A. Hotkamp, Esq., Salt Lake City, Utah, for appellees, Larry L. Hanson and Linda Ellis; Richard R. Conarro and Kellogg Mosely, pro sese.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

George F. Metz appeals from a decision dated November 17, 1980, by the Wyoming State Office, Bureau of Land Management (BLM), which dismissed his protest of BLM's rejection of his tendered remittance and drawing entry cards for the September 1980 simultaneous oil and gas drawing.

Appellant filed drawing entry cards for several parcels 1/ available in the September 1980 drawing, but his tendered filing fee was rejected by BLM because, being in the form of a personal money order, it was found not to meet the requirements of 43 CFR 3112.2-2 (45 FR 35164 (May 23, 1980)). The regulation states that "The filing fee shall be paid in United States currency, Post Office or bank money order, bank cashier's check or bank certified check made payable to the Bureau of Land Management."

The rejected remittance is identified as a "Personal Money Order" bearing the name of the "California Canadian Bank" of San Francisco, California. The instrument contains the direction "Pay to the Order Of" followed by a blank line which is filled in "Bureau of Land Management." The amount of \$110 is entered in ballpoint pen and imprinted by machine. The money order is dated September 17, 1980, and contains appellant's signature and address. It is not signed by an official of the bank.

In his statement of reasons for appeal, appellant asserts that the money order was "a bona fide Bank Money Order" which should have been accepted by BLM. Appellant has submitted a letter from the Assistant Operations Officer of the California Canadian Bank in support of the appeal. The letter states in pertinent part: "This is to verify that the Bank Money Order purchased by the above named customer [appellant] is indeed a BANK MONEY ORDER and is guaranteed by this bank as such. This is one form of money order that is issued by this bank." (Emphasis in original.)

[1] The issue raised by this appeal is whether a simultaneously filed oil and gas lease application accompanied by a filing fee in the form of a personal money order issued by a bank is properly rejected pursuant to 43 CFR 3112.2-2(a) providing that a bank money order is an acceptable form of remittance. The identical issue was recently before the Board in Charles J. Rydzewski, 55 IBLA 373; 88 I.D. 625 (1981).

In that case the Board noted that the pertinent regulations provide that only certain forms of remittance are acceptable in payment of the filing fees, including "bank money order, bank cashier's check or bank certified check." 45 FR 35164 (May 23, 1980) (to be codified in 43 CFR 3112.2-2(a)); and further, that the regulations provide that applications filed shall be examined prior to selection and that any application which "is accompanied by an unacceptable remittance" shall be returned to the applicant together with the filing fee. 45 FR 35165 (May 23, 1980) (to be codified in 43 CFR 3112.5(a)). Then the Board

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1/ The parcels to which this appeal applies are: WY 3985, WY 4030, WY 4085, WY 4101, WY 4254, WY 4307, WY 4343, WY 4567, WY 4610, WY 4816, WY 5993. The appellees herein are applicants who also filed drawing entry cards on several of these parcels.

discussed at length the meaning of "bank money order" and "bank personal money order." It observed: "A regulation should be sufficiently clear that there is no reasonable basis for oil and gas applicant's noncompliance with the regulation before it is interpreted to deprive an applicant of a preference right to lease. Bill J. Maddox, 34 IBLA 278 (1978); A. M. Shaffer, 73 I.D. 293 (1966)." Id. at 376-379; 88 I.D. at 626-628. It concluded that the regulation "simply does not specify what types of money order issued by banks are acceptable," and that personal money orders issued by banks therefore are acceptable as a remittance in the payment of filing fees in simultaneous oil and gas procedures. In view of the above ruling, we find that the personal money order issued by a bank and tendered as a remittance by appellant is acceptable under the applicable regulations.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed and the case is remanded.

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Anne Poindexter Lewis  
Administrative Judge

We concur:

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Gail M. Frazier  
Administrative Judge

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Bruce R. Harris  
Administrative Judge